

Message Text

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TO ALL DIPLOMATIC POSTS
INFO USLO PEKING
AMEMBASSY VIENTIANE
XMT AMEMBASSY TAIPEI

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C O R R E C T E D C O P Y (LINE 1 PARA 12 OMITTED)

E.O. 11652: N/A

TAGS: ICJ

SUBJECT: INTERNATIONAL COURT OF JUSTICE ELECTIONS

1. ON FEBRUARY 9, 1979, THE TERMS OF FIVE OF THE 15 MEMBERS OF THE INTERNATIONAL COURT OF JUSTICE WILL EXPIRE.

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THOSE FIVE SEATS ARE CURRENTLY HELD BY NATIONALS OF THE UNITED STATES, USSR, SPAIN, URUGUAY AND BENIN.

2. ELECTIONS TO FILL THESE VACANCIES WILL BE HELD AT THE UPCOMING SESSION OF THE GENERAL ASSEMBLY. IN ORDER TO BE ELECTED, A CANDIDATE MUST RECEIVE AN ABSOLUTE MAJORITY OF VOTES IN BOTH THE GENERAL ASSEMBLY AND THE SECURITY COUNCIL. IN THE ELECTION IN THE SECURITY COUNCIL, THERE IS NO DISTINCTION BETWEEN PERMANENT AND NONPERMANENT MEMBERS, I.E., THE UNITED STATES DOES NOT POSSESS A VETO.

3. THOSE PERMANENT MEMBERS OF THE SECURITY COUNCIL WHO HAVE DESIRED REPRESENTATION ON THE ICJ HAVE ALWAYS BEEN ELECTED TO THE COURT. (FOUR OF THE PERMANENT MEMBERS ARE PRESENTLY REPRESENTED ON THE COURT; THE PRC HAS NEVER SOUGHT ELECTION.) OTHER SEATS ARE TRADITIONALLY DISTRIBUTED BY GEOGRAPHIC REGION. ACCORDINGLY, THIS YEAR IT IS ANTICIPATED THAT A NATIONAL OF THE US AND USSR AND FROM

EACH OF THE LATIN AMERICAN, WESTERN EUROPEAN, AND AFRICAN REGIONS WILL BE ELECTED.

4. CANDIDATES FOR ELECTION ARE NOMINATED BY "NATIONAL GROUPS" OF UN MEMBERS, WHICH THEORETICALLY ARE INDEPENDENT OF GOVERNMENTS, ALTHOUGH THEIR DECISIONS ARE PROBABLY CONTROLLED IN MANY COUNTRIES. A NATIONAL GROUP CAN NOMINATE UP TO FOUR CANDIDATES, NO MORE THAN TWO OF WHICH ARE FROM ITS COUNTRY.

5. TO DATE, NOMINATIONS OF CANDIDATES FROM THE FOLLOWING COUNTRIES HAVE BEEN MADE: (1) AFRICAN: EGYPT (DR. ABDULLAH ALI EL-ERIAN) AND MADAGASCAR (JUSTICE EDILBERT RAZAFINDRALAMBO); (2) WESTERN EUROPEAN: ITALY LIMITED OFFICIAL USE LIMITED OFFICIAL USE

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(PROFESSOR ROBERTO AGO) AND FINLAND (JUSTICE EERO MANNER); (3) LATIN AMERICAN: MEXICO (DR. ANTONIO GOMEZ ROBLEDO) AND BRAZIL (AMBASSADOR JOSE SETTE CAMARA); (4) SRI LANKA (H.W. JAYEWARDENE), ALTHOUGH NO ASIAN SEAT IS BEING VACATED. THE USSR HAS NOT YET ANNOUNCED A CANDIDATE, BUT WE ASSUME THAT THEY WILL. THE US NATIONAL GROUP HAS NOMINATED AN AMERICAN (SEE PARA 7 BELOW).

6. WHEN THE UNITED STATES HAS BEEN INFORMED BY A COUNTRY OF THE CANDIDACY OF ONE OF ITS NATIONALS, WE HAVE RESPONDED BY NOTING THEIR QUALIFICATIONS AND INDICATING THAT WE WOULD WAIT TO SEE IF REGIONS WERE ABLE TO AGREE ON A SINGLE CANDIDATE BEFORE DECIDING HOW TO VOTE.

7. THE US NATIONAL GROUP RECENTLY ANNOUNCED THAT IT HAD NOMINATED PROFESSOR RICHARD BAXTER (US), PROFESSOR ROBERTO AGO (ITALY), AMBASSADOR JOSE SETTE CAMARA (BRAZIL), AND AMBASSADOR ABDULLAH ALI EL-ERIAN (EGYPT).

8. RICHARD REEVE BAXTER WAS BORN IN THE US ON FEB. 14, 1921. HE GRADUATED FROM HARVARD LAW SCHOOL IN 1948 AND WAS APPOINTED A PROFESSOR OF LAW THERE IN 1959. HE SERVED AS COUNSELOR ON INTERNATIONAL LAW TO THE STATE DEPARTMENT IN 1971-2, ON US DELEGATIONS TO THE LAW OF THE SEA CONFERENCE (1974), CONFERENCE OF GOVERNMENT EXPERTS ON INTERNATIONAL HUMANITARIAN LAW (1971 AND 1972),

AND THE DIPLOMATIC CONFERENCE ON INTERNATIONAL HUMANITARIAN LAW (1974-6), AS A MEMBER OF THE STATE DEPARTMENT ADVISORY PANELS ON INTERNATIONAL LAW (1970-DATE) AND ON LAW OF THE SEA (1973-DATE). HE HAS LECTURED AT THE HAGUE ACADEMY OF INTERNATIONAL LAW AND AT INSTITUTES AND CONFERENCES IN CANADA, UK, FRG, POLAND, SWEDEN, BELGIUM, NETHERLANDS, SWITZERLAND AND EGYPT. FROM 1974-1976 HE WAS PRESIDENT OF THE AMERICAN SOCIETY OF INTERNATIONAL LAW AND HAS SERVED AS THE EDITOR-IN-CHIEF OF THE AMERICAN

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JOURNAL OF INTERNATIONAL LAW SINCE 1970. HE IS A MEMBER OF THE AMERICAN BAR ASSOCIATION (AND SECTION OF INTERNATIONAL LAW), WORLD PEACE THROUGH LAW CENTER, COUNCIL ON FOREIGN RELATIONS, AMERICAN LAW INSTITUTE, AMERICAN FOREIGN LAW ASSOCIATION, AMERICAN ACADEMY OF ARTS AND SCIENCES, MASSACHUSETTS BAR ASSOCIATION, PHILIPPINE SOCIETY OF INTERNATIONAL LAW (LIFE), CANADIAN COUNCIL ON INTERNATIONAL LAW (CORRESPONDING), INDIAN SOCIETY OF INTERNATIONAL LAW (HONORARY), BRITISH INSTITUTE OF INTERNATIONAL AND COMPARATIVE LAW, SHAYBANI SOCIETY OF INTERNATIONAL LAW, EGYPTIAN SOCIETY OF INTERNATIONAL LAW. HE HAS WRITTEN A NUMBER OF BOOKS AND ARTICLES ON TOPICS RELATED TO INTERNATIONAL LAW.

9. POSTS AT APPROPRIATELY HIGH LEVEL SHOULD INFORM HOST GOVERNMENT THAT THE UNITED STATES GOVERNMENT WELCOMES THE NOMINATION OF PROFESSOR BAXTER, WILL WORK FOR HIS ELECTION AND HOPES HOST GOVERNMENT WILL ALSO SUPPORT HIM. POSTS MAY WISH TO NOTE PRECEDENT OF REPRESENTATION OF PERMANENT MEMBERS OF THE SECURITY COUNCIL ON THE ICJ, SHOULD ALSO STRESS US COMMITMENT TO THE ICJ AS A METHOD OF PEACEFUL SETTLEMENT OF DISPUTES, AND SHOULD INDICATE IMPORTANCE US ATTACHES TO REPRESENTATION ON THE COURT. POST SHOULD ALSO REQUEST THAT PROFESSOR BAXTER'S CANDIDACY BE CONVEYED TO THE NATIONAL GROUP OF THE HOST COUNTRY SO THAT THEY MIGHT CONSIDER ALSO NOMINATING HIM. NOMINATIONS BY NATIONAL GROUPS MUST BE PRESENTED TO UNSYG BY SEPT. 15.

10. FOR CAIRO, ROME AND BRASILIA: YOU SHOULD SAY THAT USG WELCOMES NOMINATIONS OF THEIR NATIONALS BY THE US NATIONAL GROUP. IF ASKED, YOU SHOULD RESPOND THAT WE CANNOT COMMIT USG SUPPORT OF THE CANDIDATE UNTIL WE KNOW IF THE REGION CONCERNED IS ABLE TO AGREE ON A SINGLE

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CANDIDAT:.. HOWEVER, NOMINATION BY US NATIONAL GROUP IS

INDICATION OF HIGH REGARD IN WHICH THESE INDIVIDUALS ARE HELD AND WILL CERTAINLY BE AN IMPORTANT FACTOR IN OUR DECISION. EMBASSIES HERE HAVE BEEN INFORMED OF NOMINATION OF EGYPTIAN, ITALIAN AND BRAZILIAN NATIONALS.

11. FOR HELSINKI, MEXICO, AND ANTANANARIVO: YOU SHOULD EMPHASIZE THAT US NOMINATIONS WERE MADE BY AN INDEPENDENT GROUP, NOT THE US GOVERNMENT. (FYI. IN LINE WITH US PRACTICE, CURRENT STATE DEPARTMENT LEGAL ADVISER IS ONE OF THE FOUR MEMBERS OF THE US NATIONAL GROUP. HOWEVER, OTHER THREE MEMBERS ARE NOT PRESENTLY OFFICIALS OF US GOVERNMENT. END FYI.) US HAS NOT DECIDED WHICH CANDIDATE FROM EACH REGION IT WILL SUPPORT AND WILL NOT MAKE THAT DECISION UNTIL IT HAS FOUND OUT WHETHER THE REGION IS ABLE TO ARRIVE AT AN AGREED CANDIDATE.

12. FOR HELSINKI: IT IS OUR UNDERSTANDING THAT ITALY HAS SUGGESTED THAT IT WOULD SUPPORT JUDGE MANNER FOR ITALY'S CURRENT SEAT ON THE INTERNATIONAL LAW COMMISSION IN EXCHANGE FOR FINLAND'S SUPPORT OF DR. AGO FOR THE INTERNATIONAL COURT OF JUSTICE. ALTHOUGH POST SHOULD NOT INITIATE DISCUSSION ON ISSUE, DEPARTMENT WOULD WELCOME INFORMATION ON HOW TALKS ARE PROGRESSING.

13. FOR COLOMBO: POST SHOULD NOTE THAT UNDER CURRENT GEOGRAPHICAL DISTRIBUTION OF ICJ JUDGES, THERE WILL NOT BE A VACANCY FOR AN ASIAN STATE AT THE UPCOMING ELECTION.

14. COMPLETE BIOGRAPHICAL MATERIAL ON PROFESSOR BAXTER IS BEING SENT SEPARATELY BY AIRGRAM. VANCE

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